

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS
WESTERN DIVISION**

FILED
U.S. DISTRICT COURT
DISTRICT OF MASSACHUSETTS
WESTERN DIVISION
SEP 1 2004

**CITIZENS AWARENESS
NETWORK, INC.,**

Plaintiff

v.

**UNITED STATES OF AMERICA
and
UNITED STATES NUCLEAR
REGULATORY COMMISSION,
Defendants**

Civil Action No. 04cv30114-MAP

Judge Michael A. Ponser

**PLAINTIFF'S OPPOSITION TO DEFENDANTS'
MOTION FOR LEAVE TO FILE REPLY MEMORANDUM'**

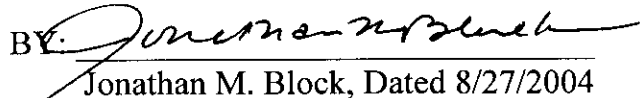
Citizens Awareness Network, Inc. [CAN], through counsel Jonathan Block, moves to oppose defendants' Motion for Leave to File Reply Memorandum (August 25, 2004). CAN contends that the defendants had ample opportunity to study CAN's complaint and take note that it requests declaratory, injunctive, and other relief. Instead, defendants made a tactical decision to seek an extension of time to answer, wait until near the due-date, produce the document, then move to dismiss on the grounds of mootness due to voluntary production without referring to the additional relief requested in CAN's complaint.

Counsel for CAN called the U.S. Attorney concerning her request for leave to file a reply memorandum, and, in accordance with Local Rule 7.1, certifies that he left a message stating that CAN, as a non-profit, public interest group, must oppose the motion as it cannot afford extended motion practice, and it is also CAN's position that the court already has

sufficient arguments, law and facts on which to render a decision on the Defendants' Motion to Dismiss. *See* Declaration of Jonathan M. Block, Exhibit 'A', attached hereto (setting forth the facts relied upon herein above).

Wherefore, this court should deny defendants' 'Motion for Leave to File Reply Memorandum' and grant the relief CAN has requested in its complaint, opposition and memorandum.

Respectfully submitted:

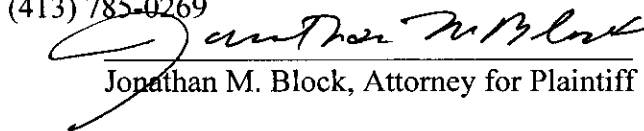
BY: 
Jonathan M. Block, Dated 8/27/2004
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Of counsel:
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(413) 737-0260 (voice)
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CERTIFICATE OF SERVICE

This is to certify that I have, on this 27th of August, 2004, served upon the person listed below, attorney for the defendants in this case, a copy of the foregoing document and attached Exhibit 'A' by mailing it to her United States Postal Service pre-paid first-class mail:

Karen L. Goodwin
Assistant U.S. Attorney
1550 Main Street, Room 310
Springfield, MA 01103-1422
(413) 785-0269


Jonathan M. Block, Attorney for Plaintiff

**Before the
UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS
WESTERN DIVISION**

CITIZENS AWARENESS
NETWORK, INC.,

Plaintiff

v.

UNITED STATES OF AMERICA
and
UNITED STATES NUCLEAR
REGULATORY COMMISSION,

Defendants

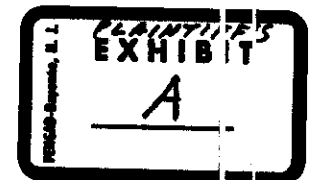
Civil Action No. 04cv30114-MAP

Judge Michael A. Ponser

DECLARATION OF JONATHAN M. BLOCK

I, Jonathan M. Block, declare as follows:

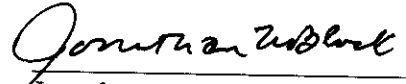
1. My name is Jonathan M. Block and I am co-counsel for the plaintiff in the above captioned case. On June 16, 2004, I filed a complaint in this case with the court.
2. On July 23, 2004, counsel for the defendants filed a Motion for "Extension of Time to August 9, 2004 to File Answer by United States Nuclear Regulatory Commission, United States of America". On or about that day, defendant United States Nuclear Regulatory Commission mailed a copy of the FOIA-ed document to me.
3. On August 10, 2004, defendants filed a "Motion to Dismiss Complaint as Moot" with a supporting Memorandum of Law attached thereto. Defendants' motion and memorandum contended that, as CAN's complaint requested an order for production of the document, voluntary production mooted the complaint and no additional relief is required.
4. On August 19, 2004, CAN filed an opposition to the defendant's motion to dismiss the complaint as moot. CAN also filed a memorandum in support of its opposition with exhibits attached thereto.
5. On August 25, 2004, counsel for the defendants in this case called plaintiff's attorneys, Jonathan M. Block and Robert L. Quinn, to discuss CAN's position on defendants filing a motion for leave to file a reply memorandum to CAN's opposition. Within about one hour of receiving the calls, plaintiff's attorneys made conference call in response. Receiving "voice mail" I stated, to the best of my recollection, that Rob Quinn was on the line with me,



that CAN's position on the issue of leave to reply was that as a non-profit, it could not afford extended litigation and, therefore, opposed defendants' motion, and that CAN's position should be represented to the court as opposing the motion for that reason and because CAN contends that the court already has adequate argument, law and facts upon which to make a decision on defendants' motion to dismiss.

6. On August 25, 2004, defendants' counsel filed a Motion for Leave to File Reply Memorandum with this court.

I declare under penalty of perjury that the foregoing is true and correct. Executed on August 27, 2004.


Jonathan M. Block
Co-counsel for Plaintiff